

Myanmar CSO Shadow Report on Thematic Issues: Violence against Women

To 64th Session of UN CEDAW Committee

**In relation to Myanmar Combined Fourth and Fifth Periodic Report of State Party,
23rd February 2015 (CEDAW/C/MMR/4-5)**

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17th June 2016**

Key Issues on Violence Against Women

By CSOs

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Executive Summary

This CEDAW Shadow Report is written by CEDAW Action Myanmar (CAM). This working group is established in 2012 and consists of 15 local organizations. The report consists of perceptions of 309 (with 226 women and 83 men) respondents who participated in a survey; along with news from print and social media. Myanmar has peacefully elected people led Government in 2015 and people rightly expect restoration of Human Rights in the country. However, during the reporting period (2015-2016), the number of cases reported has increased.

There are number of barriers in implementing CEDAW. Women are not aware of their rights, the Institutions who are expected to support women survivors of violence are not sensitive towards women due to existing gender stereotypes. The outreach of Government initiative is limited and Civil Society has to comply to many government rules so that their work gets affected.

State: CAM observes that the State has initiated certain activities in implementing CEDAW. However Legal Reforms and Establishing Support Mechanisms for survivors of GBV need to be taken on priority. State has institutionalized mechanisms like establishing a Focal Ministry. However, such efforts need to be strengthened by establishing support mechanisms at all levels, especially in rural areas.

Recommendations by CAM: 1. Review and Reform Legal system e.g. definition of Rape 2. Investigation Processes should be survivors friendly. 3. Sensitization of all stakeholders who have responsibility to address Violence against Women. 4. Extend outreach of Support mechanism (e.g. Shelter) to rural women. 4. Introduce GBV Awareness program in Education system for creating awareness and building capacities of masses. 5. The state should have a protection and prevention mechanism, law and measures for all kinds of women regardless of their religions, cultures and traditions.

1. Introduction

The working group of this report is established in (2012), namely CEDAW Action Myanmar (CAM), composes of (15) local organizations (**See Annex – I**) and interested individuals in order to monitor and encourage the Government of Myanmar to take into account its commitment on gender equality. A series of meetings and consultations had been carried out to produce this report. Series of workshops on CEDAW monitoring and implementation, qualitative data collection methods and CEDAW report writing were conducted in collaboration with International Women’s Rights Asia Watch Asia-Pacific, Foundation for Women/ Regional UN Women and CAPSTONE Project from Columbia University, USA. A combined finding from field survey¹ with (309) respondents (**See Annex II_ Figure: 1 & 2**) and secondary data review from various sources (both sources from member organizations and external) was included in this report. Recommendations are also attached on each finding.

It was observed that the State has achieved in the implementation of concluding observation from UNCEDAW committee (CEDAW/C/MMR/CO/3) particularly in the areas of combating trafficking in persons, awareness raising and trainings on CEDAW and gender to legal profession, setting legal compliant mechanism through Myanmar Women’s Affairs Federation (CEDAW/C/MMR 4-5_para_19 and CEDAW/C/MMR/Q/4-5/Add.1_para_ 21 to 33), a couple of research studies regarding cultural and stereotypes affecting the lives of women, and falling interest of family affairs compared to last couple of decades. However, there is still remaining action to be taken or no progress is seen upon the recommendation on legislative reforms, the review of all the existing domestic laws, putting temporary special measures in the government agenda to assure women’s representation and participation in the political life, and the provision of effective counseling, shelter and immediate measures for the survivors of violence (CEDAW/C/MMR/CO/3).

The State has also adopted its national mechanism for the advancement of women (NSPAW- 2013-2022) and appointed focal ministry to implement CEDAW convention but still failed to appoint gender focal at each ministry and the allocation of budget for the full implementation of the Convention.

Key issues in relation to sexual, domestic and institutional violence are covered in this report. Key recommendations on availability, accessibility and the good quality of legal system, the provision of remedies and accountability of justice system in accordance with CEDAW/C/MMR/CO/3-para-16 to 20 and 25 and general recommendation no. 19 &28are urged to reinforce in its country system through this report.

2. Contextual Analysis

Myanmar has undergone revolutionary changes in its democratization process in 2010. The new people-led government came to power recently in April 2016, aims to push for fundamental transformation. Myanmar is also considered one of the world’s worst human rights abusers, and in particular rape and other sexual and gender based violence are

¹ CAM conducted a primary data collection by using various approaches such as participatory focus group discussion, in depth interview, and key informant interview from (August – December, 2015).

widespread across the country. During this reporting period (2015 -2016), there are still many issues on socio-economic status and political situation which has also continued to contribute to form of institutional violence across the country.

Although the previous government had signed a nationwide peace agreement with ethnic armed groups, conflicts continue to exist among ethnic areas especially in Kachin, Shan, Mone and Arakan. Evidence² show that the ongoing civil wars with Shan, Ta-aung, Kachin, Rakhine, has resulted in sexual assault and violence cases committed by military personnel and armed groups, mostly in rural and hilly regions. All intersections of women, including elderly women, girl child and women with disability become survivors of wars as they are subjected to rape and other forms of sexual violence (Kachin Women Peace Network, Association of Myanmar Disabled Women Affairs).

There are also religious oppressions which create communal conflict. Breakdown of rule of law has led to violence against women cutting across religion, age, marital status, and ethnicity in conflict area as well as non-conflict area.

Investigation process or practices are not survivor friendly and the Judiciary system on sexual violence including rape cases is not transparent.

Though the State acceded CEDAW on 22nd July, 1997 and submitted initial report and periodic reports to CEDAW Committee, the government failed in its obligation to eliminate all forms of discrimination against women.

3. Key Issues on Violence against Women

- 1: Sexual Violence, particularly rape and sexual harassment
- 2: Domestic Violence
- 3: Institutional Violence, particularly rape, other forms of sexual assault perpetrated by military personnel and armed groups, uprising of current communal conflict and poverty issues

Two organizations named Legal Clinic Myanmar³ (one of the CAM's members) and Mon State Women and Children Upgrade Conduct Organization⁴ reported that they were annually dealing with over 1059⁵ (See Annex III - 1 & 2) cases of violence against women (such as rape, forgery (cheating for the sex), domestic violence and other forms of sexual assault) in their targeted communities. Of these, an average of 10% (247 out of 1059) reached to the court and police and the rest have been solved through mediation⁶. Of 247

² This statement was collected from various private media namely Eleven Media, 7 Days Newspaper and social media.

³ Legal Clinic Myanmar is one of CAM's members, it composes of lawyers and advocates who work for the survivors of violence such as rape, domestic violence, sexual assault and other kinds of violence against women in Yangon, Phya Pone, Myitkyina, Meiktilar, Rakhine and Mandalay.

⁴ Mon State Women and Children Upgrade Conduct Organisation is based in Mawlamyine, Mon state and focuses on the protection and promotion of Women and Child Rights. It also concerns about the women survivors of domestic and other forms of violence.

⁵ Numbers of 1059 cases including rape, sexual assault, domestic violence and other forms of violence are dealt by Legal Clinic Myanmar on 833 cases and Mon State Women and Children Upgrade Conduct Organisation on 226 cases within the period of 2014 to mid 2016.

⁶ Advocates or service providers from (LCM and MUCUC) provide some suggestions, counseling and referral to the complaints.

court cases, most of the cases are investigated and majorities of the perpetrators have been charged 3 months to 10 years imprisonment.

Of 309 CAM's surveyed respondents, over 90% of those experienced sexual or domestic violence in person or had knowledge of it occurring in the surrounding communities.

3.1 Sexual Violence (Article – GR-19)

Scope of sexual violence covers cases of rape and sexual harassment in this report. Both primary and secondary findings are incorporated and existing barriers, state actions and recommendation are presented.

3.1.1 Rape

a: Prevalence and causes of rape

As of May 2016,(95) rape cases are reported to legal Clinic Myanmar and MWCUC and those are sent to the court and police within the period of 2014 to mid 2016. Of these, (27) is child rape, from the age of (under 5) to 16. Elderly women, rural women and women with disability were also survivors of rape. CAM's research findings proved that numbers of women have been raped when they were alone at home or when they were going out of alone. CAM's identified reasons or push factors of rape were power imbalance, porn movie, insecure environment, men's uncontrolled desire, overuse of drugs, drugs for sexual arouse, cultural norms, poverty and women's disability condition. There are no traditional support mechanisms or groups where a woman in distress can approach. The highest numbers of cases occurred in rural or urban fringe townships. Child rape also increases compared to the last decades. The State report also mentioned the numbers of rape cases, there are 7272 cases in 2013 (CEDAW/C/MMR 4-5, Annex – E).

b. Barriers and Challenges

About 700 rape cases are reported annually in Myanmar, according to national police records, which are likely to under represent the scale of the problem. The police - usually the first port of call for rape survivors wanting to make a report - can also be insensitive, poorly trained, and sometimes corrupt, according to activists, adding yet another layer to the challenges faced by women who have been sexually assaulted.⁷

Number of barriers and challenges were identified from survey. The first barrier is women's reluctance to report incidence of violence. Findings show that most of women don't want to disclose the incidence of violence and don't want to report to the police and court due to the influence of cultural norms; social stigma, depriving of family dignity, despised by society if they disclose their cases. Director cum Advocate from Legal Clinic Myanmar (LCM) said that they have mediated over 634 out of (833) cases of sexual assault or violence by their intimate partners including husbands and those were not reported to the police or court due to women's concern of their husband's imprisonment, not able to afford court expenses, the position of women as financially dependent, fear of social stigma by societies.

⁷www.myanmar-now.org/news/i/?id=aa0320cc-cb14-4750-ad79-25d085739969

The second barrier is improper legal procedures and lack of gender awareness of judges and concerned officers. Director cum Advocate of Legal Clinic Myanmar said, rape cases were asked full evidence (vaginal injury, semen, clothes, medical record) and witness due to the judges' lack of gender sensitivity.

Due to gender insensitivity sometime the judges asked the survivors to describe the incidence of rape in details. Sometime judges asked for the appearance of a person who had witnessed the rape. Such court procedures might be one of the reasons why women don't want to approach court in search of justice. Sometimes due to lack of awareness of rights of women, women are not allowed to execute their rights.

The third major barrier or challenge is lack of interest, awareness and lack of responsibility by police officials to register complaints of rape. This makes the work of Service Providers (LCM, MWCUC, PGK and others who involved in this report) more challenging, as they have to directly approach Court to register complaints against rape.

c. State interventions

There are certain progressive steps taken by the State. State has assigned Gender Focal Department to Department of Social Welfare and assigned its staff to respond to violence against women in collaboration and coordination with Myanmar Women Affair Federation (MWAF) and other INGOs/ NGOs. However, the State needs to plan appropriate actions like Review Legal definition of Rape; Review existing legal procedures in the light of how they impact lives of women; Sensitization of Rural and Poor women about how the laws can bring in positive change in their life regarding violence.

State's adoption on legal definition of rape and awareness of case management bodies:

The legal definition of rape and the examination of rape and its process are not appropriate for rape survivors. Rape is defined in the Penal Code as "the penetration of man's organ (penis) into women's vagina". So when medical personnel examine a survivor by inserting fingers or stick, it is like one more rape of women. This practice of "Finger Test of Rape" should be reconsidered. Also treating only the "penetration" as rape is insufficient to address the plight of survivor women. Hence the definition of Rape needs to be reviewed and modified. Though the state is providing numbers of trainings to its police officials (CEDAW/C/MMR 4-5_para_19 and CEDAW/C/MMR/Q/4-5/Add.1_para_ 21 to 33), It is also found out that some case management bodies particularly judges, medical examiners, police and village authorities are not aware of the protection and prevention of women's rights, women's privacy, safety and dignity as well as case management bodies have lack of practices to protect women's identity.

Legal procedures and provision: Though the state has mentioned (CEDAW/C/MMR 4-5_para_50 to 52) the implementation of survivor's care and provision of legal support in some areas, it is still needed to improve and create easy access to legal support mechanisms for rural women in particular. The present legal provisions and mechanisms are not followed strictly. The implementation of law depends on the responsiveness of the concerned staff and it

is not yet fully institutionalized. In Mon state where CAM assessed, recently a 13 year disable girl was raped in (x) village. The police kept on transferring the case from one place to another, exhibiting their reluctance to handle the case. At the same time, the village administrative bodies forced the girl to marry the perpetrator⁸. In this case, Convention on the Rights of The Child (CRC) had not been taken into account and “survivors being forced to marry the perpetrator” is a clear example of traditional practices overruling existing legal provisions. The legal procedures are rather unclear and that is the reason all perpetrators are not brought to trial and are not punished according to law.

The state should reinforce its legal systems and procedures for sexual violence survivors to ensure the GR 28, para-34.

Quality Services and shelter: It is observed that the Government of Myanmar (GOM) has taken actions on rape and the provision of legal remedies for rape survivors (CEDAW/C/MMR/Q/4-5/Add.1, para 27 - 33). It includes the capacity building of to its public officials on awareness of Violence against Women (VAW). However, evidence show that there exist numbers of problems on medical diagnosis of rape, providing temporary shelter to survivor and judiciary process.

The process related to medical diagnosis on rape is complex. When someone is reported as raped, the Assistant Surgeon has to inform Forensic Doctor. First step is to check for the physical injury on the face and the body. Second step to check for vaginal injury: clue for semen and other related evidence. Then those evidences are sent to the Department of Medical Research (DMR), which is located only in 2 areas: Yangon and Mandalay. Adding to this, no medical examiner is assigned at every hospital. The process of evidences checks takes 2- 3 months or sometimes more than that. There is no special room and no separate medical person for treatment and counseling. Because of such long process some survivors can't afford to access justice.

The shelter, particularly for the rape survivor is almost non-existent. At the same time, temporary special measures for the rape survivor do not exist. The State does not fulfill its obligation on ensuring free or affordable access to legal services and legal aid as well as increasing rural women's awareness and legal literacy (CEDAW/C/GC/34- para-9 (c &d)). With lack of legal awareness and unaffordable legal aid, women (particularly poor and rural women) hesitate to sue the perpetrator. However some women seek legal advice from accessible service providers. The state should ensure its due obligation towards women regardless of race, religion, social status, marital status, age, disability.

d. Recommendation

- The State on priority should review the legal definition of rape and all operational lacunas in its legal procedures and adapt applicable one. The State should declare a schedule for these important strategic decisions. The State needs to evolve new mechanism in a participatory manner so that women's perceptions are taken into consideration.

⁸ Interviewed result with MWCUC dated on 12 – 5 – 2016.

- Medical examination of the rape survivor should be conducted in a more sensitive manner. Counseling facilities and medical treatment to survivors should be integral part of Medical Examination.
- The State should accommodate survivors and provide counseling for rape survivors.
- To train medical persons, police officers, judges and forensic doctors who have responsibilities to implement law and provide support to rape survivor.
- To strictly follow the Human Rights Treaties ratified by State and disseminate to all the levels of the Government and Implementation staff.
- To review the customary law and take action especially on rape cases as well as sexual violence in accordance with CEDAW and GR 19 and 33.

3.1.2 Sexual harassments and other forms of sexual violence.

a. Prevalence and types of Sexual Harassments

Sexual harassment and other forms of sexual violence include forgery/cheating for the sex, sexual abuse, sexual exploitation, attempt to rape and psychological/emotional violence against women by their intimate partners or relatives or friends or unknown men.

Over 90% of CAM's surveyed respondents expressed on being experienced of sexual harassment in person or found in their surroundings. The involved organizations in this process pointed out that they were dealing with over (100) of sexual assault cases and these were even reported to the police and court. There are still number of incidences remain underreported due to the following barriers.

b. Barriers and Challenges

Majorities of CAM's surveyed respondents expressed that they were unaware of national and international rights and laws (particularly CEDAW and National Strategic Planning for the Advancement of Women, national legal provision). All respondents said there is no temporary shelter. Though there are community based groups and civil societies; but they do not take actions on sexual violence/harassment. Only physically injured women have been taken to the hospital. Women survivors could sometimes consult with Myanmar Women Affair Federation but no effective measures are received.

Protection law in relation to sexual harassment, there are some specific Penal Code (such as Article_354, 417, 494,500 and 509) to prevent and protect sexual harassment. However, these are not updated and have not reinforced. The state has failed to introduce and give awareness of this law to public either. Most of the assessed respondents where CAM conducted also expressed on the lack of awareness on the existence of such specific law for any sexual harassment as well as lack of understanding on the provision of legal remedies.

c. State interventions

It is learned that the State has implemented activities on ending violence against women through research, capacity building and legal supports (CEDAW/C/MMR 4-5 and CEDAW/C/MMR/Q/4-5/Add.1, para 21 to 33). The State also worked on GBV awareness raising through ethnic TV and other local radio programs as well as news journal. There are also temporary shelters for survivors of trafficking in three bordering townships but no shelter exists for survivors of sexual violence.

However, most of CAM's surveyed respondents explained that they have not received GBV awareness through either media or in person. Given that situation, most of women particularly women from remote and rural areas do not access equal provision and assistance from the State.

Normally the State and Private Media broadcast strengthen gender stereotypes. They blame women for the sexual violence they experience. They try to make women feel guilty by commenting on the dress or the behavior of women. They try to put the responsibility of the violence incidence on women themselves. The perpetrator is excused and those women who need support are blamed, which is indeed stereotypical.

d. Recommendations

- As CEDAW GR 28, the state should review its obligation and reinforce practical actions to realization of women's rights. Establishing provincial committees to review – with participation from Civil Society
- The state should include GBV and legal awareness programme in its educational curriculum. Trainings on GBV, CEDAW and rights awareness to all teachers, and integrating GBV and rights awareness to its existing curriculum are essential.
- The state should review the existing law related to sexual harassment and amend in accordance with (GR – 28 and 33) and make sure whether it is included in the development of PoVAW law.

3.2 Domestic Violence (Concluding Observation: session 22 and GR – 19)

a. Prevalence and types of domestic violence

It is noted that the state is in the process of drafting the protection of violence against women law including domestic violence but no action is being taken on reducing harmful traditional beliefs and norms resulting domestic violence. The government has shown little concerns on the cases of such violence and there is no measure to combat domestic violence. Of 309 persons surveyed, 90% of cases reported that they have suffered on coerced to sex, beaten, blaming, accusation and bully by their husbands and (39) of court reported cases⁹ highlight that women suffered different forms of violence by their intimate partners, relatives, neighbors and even military personnel. Forms of violence such as marital rape, physical abuse, verbal abuse, sexual abuse and psychological abuse have been confirmed from various sources. (See Annex III _1& 2 and Annex IV, VII _ Figure (4))

Marital Rape: The state denied the existence of marital rape. CAM's findings especially the respondents from Southern Shan, and Mon, show that there are higher rates of domestic violence occurred across the country. Of CAM's piloted studies areas, numbers of the respondents have reported on being experience of rape and sexual abuse by their intimate partners.

Physical Abuse: Cases of physical violence among married couples have been reported in which the wives normally are survivors and husbands are perpetrators. Physical violence includes hitting, kicking, pushing, hurting, battering and

⁹39 of court reported cases were provided by Youth Legal Clinic who dealing on those cases.

beating. Of 309-piloted surveys, 90% of respondents reported that they suffered this kind of violence by their husband.

Verbal Abuse: Another invisible abuse among partners is also reported in CAM's study. A woman expressed that she received unstoppable blaming from her husband if she didn't give consent to sex. Lack of acceptance on the existence of this abuse and no measure is taken by State actors reinforces discrimination against women in Myanmar society.

Psychological Abuse: Psychological abuse includes adultery, ignorance/neglect, doubt, lookdown, traditional stereotyping through proverbs, and prohibition to have consistent relationship with relatives or for mobility or for descent work and verbal abuse. This experience makes women to meekly accept subordinate position in the home and community. Findings show that women regularly receive such kinds of abuse from their husband, mother in law and local authorities. A woman after getting married who lived together with her in law family was used to be blamed because her mother in law assumed that she persuaded her son to be married. Another woman used to be emotionally attacked by her mother in law by saying that she would find more daughters in law for her son very soon.

Economic abuse: As women from Myanmar are economically dependent, women have to follow their husband and mother in law's decision. One surveyed woman reported that she was asked to leave the belongings and leave home. One woman had to accept what her husband provides, woman could not ask for more than a limited amount. She was hurt/ hit if she asked more money from her husband.

b. Barriers and Challenges in combating domestic violence

Lack of legal awareness and influence of traditional norms: It is observed that only few cases of domestic violence are solved by legal point of views. Respondents have shown the lack of awareness on legal procedures and less trust on the legal provision. Traditionally, intimate partners' violence was dealt at villages/ wards administrative level. Marital rape, sexual abuse and emotional/psychological abuse were hardly reported even among the trustworthy bodies. Only divorce, rape (by other than husband) and other physical injuries admitted by intimate partners reached to the police/ court. Women normally are reluctant to disclose their experience due to stigmatization in the society. Over half of the CAM's surveyed respondents mentioned that they did not report though they knew where to report. These are barriers when combating VAW. This also links to the new law of monogamy passed in 2015, Women did not disclose bigamy of their husband, women were afraid of that their husbands would be sentenced imprisonment due to such law. (See Annex V & VI and Annex VIII _ Figure 6 & 7)

Lack of applicable legal remedies and procedures: Evidences show that survivors do not want to go to the court due to long and complicated process. For example, most courts are placed in downtown areas and frequent appointments mean more transportation charges and other expenditures. These unreasonable and impractical procedures are challenging for rural and poor women. Hence they normally avoid reporting these issues to the court and police. Instead of using legal channel, intimate partners violence was solved through traditional and

domestic ways such as the community leaders charged just pigs/chickens and few money to the perpetrators.

Lack of quality services and shelter for the Intimate Partner Violence (IPV) survivors: There are still limited services and shelter for the survivors of domestic violence though the state mentioned that there are in Myanmar and it is learned that around 50 to 70 counseling centers are running by respective Myanmar Women's Affair Federation (CEDAW/C/MMR 4-5, Annex C 2 to 6). They also provide legal protection, necessary suggestions, referral and lawyer if needed (CEDAW/C/MMR 4-5, para 23-24). It is also centered in some certain areas/ urban areas and for all the survivors from those areas those are not easy to access. Some survivors are not aware of such a provision. CAM's surveyed respondents explained that they don't know who is providing services and refuge to reconcile when their husbands hurt them (**See Annex VII _ Figure (5)**). That's because they generally use their relatives, parent or neighbor's house as temporary shelter.

Challenges of service providers: Number of research studies and mappings pointed out that there were over 46 numbers of organizations in 12 administrative areas providing primary services for domestic violence or other forms of violence. Of these, only 15% of services were supported/ provided by GONGOs (named as MWAF and DSW), the rest were from civil societies organizations¹⁰. Another challenge for service providers is lack of recognition from the Government and financial support. Since registration process takes such a long time some organizations with high potential to address issue of violence faced by women have to curtail the work and thus their potential remains unused.

c. Critical Reflection on State interventions (CEDAW Article 1-6 and GR 19 &28)

There have been some activities done regarding protection and survivor's assistance, research and awareness raising on Violence against Women (VAW) mentioning in the state report. This is the progress of state interventions compared to the last decades. However, it is noted that these are just a limited number of activities and size of the areas. Executive Director of PyiGyiKhin (PGK) said that the joint programme happening in 4 piloted areas that have been finished since 2014. She added that only rape cases have been reported to the court, domestic and other forms of violence were solved domestically at the center/ villages. The survivors due to inability to afford court case expenditure, closed rape cases. These ground realities should be reflected in the strategies evolved by the State.

State's adoption of legal definition on domestic violence: Both de facto and de jure situation, women are invisibly violated physically, psychologically and economically. The state does not adopt the definition of domestic violence from the framework of UNCEDAW and General Recommendation 19 and-28, as the State does not show its concerns over domestic affairs. So as to this, the state adopted the new special marriage law for Buddhist women instead of endorsement on Protection of Violence against women -PoVAW law. The new law of special

¹⁰This was referred from "violence against women (VAW), prevention and responses, services and access in Myanmar research study conducted by AJAR and Education Initiatives, October, 2015.

marriage for Buddhist women discriminates against other minority women who profess other religions in Myanmar and against the provision of equal rights for all citizens in its constitution (Chapter 8, article 347 and 348). The law second neglects the freedom and choices of its Buddhist women in relation to marriage and family life.

Services and shelter:It is noted that the state provides legal supports and necessary protection to the survivors by opening temporary shelter (CEDAW/C/MMR 4-5, para 50). However, it is just a piloted area and the services have been stopped already as mentioned above.

It is also said that the state particularly Myanmar Women's Affairs Federation (MWAFF) has taken actions on VAW related complaints in 15 States and Divisions (CEDAW/C/MMR 4-5, para 23).It added on those there 1001 persons who came to the counseling center. Normally, in MWAFF there is no privacy for counseling. So as to this, how MWAFF guarantees the quality and confidentiality of counseling services and effectiveness of complaint redress. Of 309 CAM's surveyed respondents, majorities of the respondents mentioned on the lack or none of temporary shelter and services in (4 States and 5 Divisions) piloted areas¹¹.

Coordination: It is also learned that the state is working in partnership with other local NGOs and INGOs in combating VAW. Research study conducted by Asia Justice And Rights and Education Initiative mentioned that, there are 46 service providers, however, the state report mentioned only a few organizations like GEN, UNGTG, UNFPA and PyiGyiKhin. The state should identify the remaining local based organizations and give recognition and financial supports to reach out to all levels of women.

Legal Provision: It was mentioned that the state particularly MWAFF provides legal protection over compliant received. It is not sure the extent of legal provision as most of legal process and procedures take longer time and consume money, and energy of the survivors. Director of PyiGyiKhin (locally based NGO) said, they open community-based center in 4 townships in collaboration with Department of Social Welfare (DSW) and MWAFF. There is a format to record cases for further actions to police or court. The director added that the communities particularly women faced difficult to fill the forms thus PyiGyiKhin helped the survivors in filling the form to proceed. The survivors sometimes closed their cases at the middle of their legal process due to frequent appointments and its original long process. It impairs the definition of UNCEDAW on "without delay" (GR-28, para – 29 and CEDAW/C/MMR/CO/3 - para - 21) as well as it makes the survivors not to access justice.

Capacity Building on Violence Against Women (VAW):The state states that there were awareness raising trainings on VAW incorporation with UNFPA and other agencies (CEDAW/C/MMR 4-5, para 45). The frequency of trainings and number of attendance are still low compared to the target population. It is also not sure who the participants are. Awareness raising related to VAW should also be

¹¹CAM conducted its pilot survey on reported thematic issues in four states (namely Kayah, Karen, Mon and Shan) and five divisions (namely Yangon, Ayeyawaddy, Bago, Mandalay and Thanintari).

reached to police officers, medical persons, lawyers and judges. At the same time, national budget for VAW related trainings programme are not explicitly allocated. Budget, capacity building plans for all different levels and awareness-raising tools (example, developing learning tools for illiterate women in illustration with different ethnic languages, education sessions through radio, TV channel) should be set in order to fulfill GR 28.

Resulting to this, most women and men (from CAM surveyed areas) from the ground do not know CEDAW even it national strategic planning for the advancement of women (2013-2022) (See Annex V _ Figure 3).

d. Recommendation for eliminating domestic violence

- To enact PoVAW law in consultation and collaboration with non-governmental organisations, women led organisations and relevant actors. The law should include the explicit definition of Violence against women, in accordance to GR19, specific procedures, accessible service centers Clear implementing and accountability mechanisms
- Sensitization the PoVAW law to the cases handling authorities, police, civil servants and to the public after adoption.
- Specific law to prevent and protect domestic violence should be enacted and sensitized.
- National Budget allocation for counseling center and temporary shelter for Intimate Partner Violence (IPV) survivors and their spouses as well as capacity building and awareness-raising tools development.
- State should demolish the existing special marriage law for Buddhist women
- To create and establish accessible and applicable one-stop service for Intimate Partner Violence (IPV) survivors and its spouses in all states and divisions.
- Budget, capacity building plans for all different levels and awareness-raising tools (example, developing learning tools for illiterate women in illustration with different ethnic languages, education sessions through radio, TV channel) should be set in order to fulfill GR 28.
- State should sign the Optional Protocol to CEDAW
- The state should have a protection and prevention mechanism, law and measures for all kinds of women regardless of their religions, cultures and traditions. It is hoping to include the applicable definition on violence against women for both public and private sectors in its Protection of violence against women law.

3.3 Institutional Violence (CEDAW Article 4, GR 28, GR 30 sub section 38 and GR 34)

a. Scope of Institutional Violence in this report

Institutional violence in this report covers violence admitted by the state and non-state actors in conflict affected and non-conflict affected areas. It covers how the state and non-state actors violate women rights as tools of war and how the state protects the rights of women particularly rural women in Myanmar. Evidence showed that sexual assault and violence cases admitted by military personal and armed groups happened mostly in rural and hilly regions.

a.1 Institutional violence in context of conflict affected areas: Rape and other forms of sexual assault: Though the number of rape and sexual assault in conflict

areas have reduced compared to the last couple of decades, it still exists till now. The state report also mentioned that there were 6 rape cases admitted by military personal. There are still underreported cases remained.

All kinds of women such as elderly, the girl child and women with disability are subjected to the victims of wars of rape due to conflict and conflict related issues particularly in Kachin, Kayah, Mon and Karen state. Numbers of cases point out that most of the perpetrators are military personal or local armed groups. Both military and armed group also admitted other human rights violations such as arbitrary taxation, humiliation, torture and restricted mobility.

Kachin Women's Peace Network (KWPN), one of the CAM's members, works in Kachin state, reported that there were numbers of rape cases admitted by military personal. They are merely solved clearly. An example case of two volunteer teachers from Kachin state, this is still ongoing process though it is two years already. Sometimes, both groups cheated for the sex to the rural women.

In Kayah State, women are subjected to sex in rural areas where armed groups have power. A case from Kayah state mentioned that member of armed group cheated a rural woman for sex and the perpetrator was neglected the woman when got pregnant. There are some cases of women who received stigma from the societies whether they married military personal or armed group. Women are considered as betrayer of its ethnic if they married military personnel and they are doubt as messenger or members of unlawful association if they married members of ethnic armed groups. Strong traditional beliefs and harsh stereotypical norms, women are subjected for sex and neglect by the perpetrators. Armed groups coerced women from rural areas to have sex with them and when women become pregnant, they did not take care or neglect the reality. Community leaders gave the penalties and sanctions to men but if men disappeared women should give all the compensation according to customary practice.

a.2 Violence occurred in Non conflict-affected areas

Uprising of Communal Conflict: Attempt to create communal conflict, religious oppression, no rule of law, and violence against women by armed related groups are kinds of violations of state actors. (See Annex III_2)

Rape and other forms of violence against women: There are admitted cases of rape, murder after rape, and physical violence on women by high-level military associated groups. One case from Yangon highlighted that a woman was raped before she murdered by a son of a high rank public servant. The case was less effort of investigation and it was assumed as a suicide case finally.

b. Critical Reflection on the State Actions

Discriminatory Laws: Between May2015 and August 2015, Parliament adopted four laws aimed at "protecting race and religion", originally proposed by hard line Buddhist nationalist groups. The laws¹² – the Religious Conversion Law, the Buddhist Women's Special Marriage Law, the Population Control Healthcare Law and the Monogamy Law – were passed despite containing provisions that violate human rights, including by discriminating on religious and gender grounds and it

¹² <http://www.loc.gov/law/foreign-news/article/burma-four-race-and-religion-protection-laws-adopted/>

is not cover for all women citizens. Given that the adoption of special marriage law for Buddhist women neglect the diversity and pluralism itself. The state does not show its concern over other women who confess other religions.

Lack of compensation and reparation: State actions on the areas of sexual violence are underway but there is lack of compensation and reparation for the survivors. Over a couple of decades, many women particularly women from remote and conflict affected areas have suffered different forms of violence, including those which have resulted in death of the survivor. Given that situation the trial of sexual assault/ violence associated with military personnel and armed group has been lack of transparent and public hearing.

c. Recommendation

- State should review on the treaty recommended by CEDAW committee on GR 30, para 87 (c) and adopt to ensure zero tolerance on violence against women and sexual harassment in conflict-affected areas.
- Law enforcement and enhanced rule of law are badly in need in both conflict affected and non-conflict areas.
- The state should provide special measures on ending violence against women and sexual harassment in during conflict or post conflict situation and sensitize all service providers, state and non-state actors.
- The trial process should be transparent and should be conducted in public domain.

Member List of CEDAW Action Myanmar (CAM)

1. Akhaya
2. Association of Myanmar Disabled Women Affairs (AMDWA)
3. Kachin Women's Peace Network (KPWN)
4. Legal Clinic Myanmar (LCM)
5. Mothers' Union (MU)
6. Myanmar Council of Churches, Ecumenical Women's Work
7. National Young Women Christian Association (NYWCA)
8. NGO Gender Group (NGO GG)
9. Shwe Danu Self Help Group
10. Shwe Inn Thu Self Help Group
11. Tanintharyi Women's Network (TWN)
12. Thingaha Working Group
13. Women Can Do It Myanmar (WCDI-M)
14. Women's Organizations' Network of Myanmar (WON)
15. Yaung Chi Thit
16. Individuals

Figure (1) No. Of Respondent who participated in CAM’s Survey

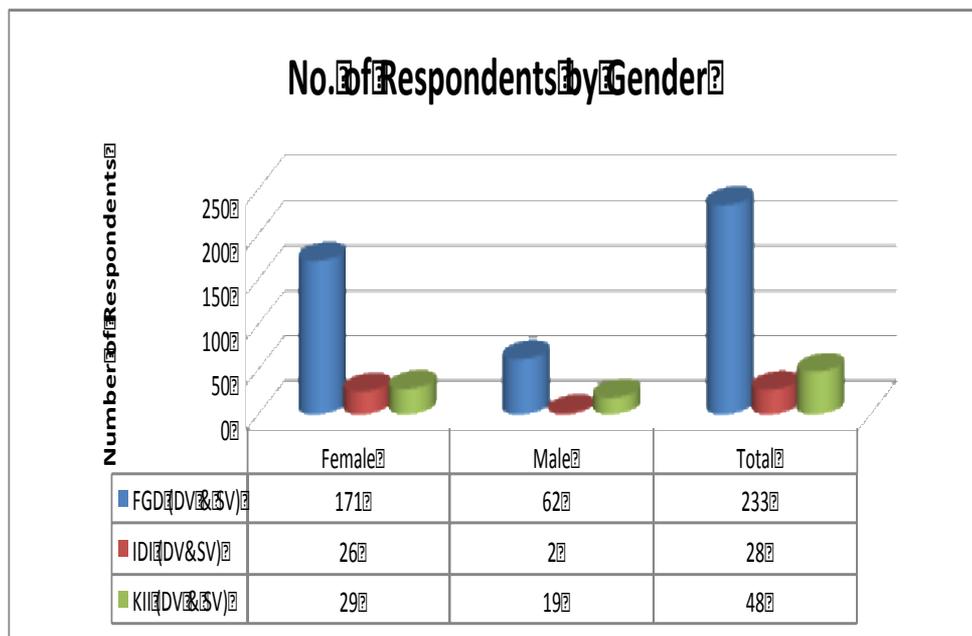
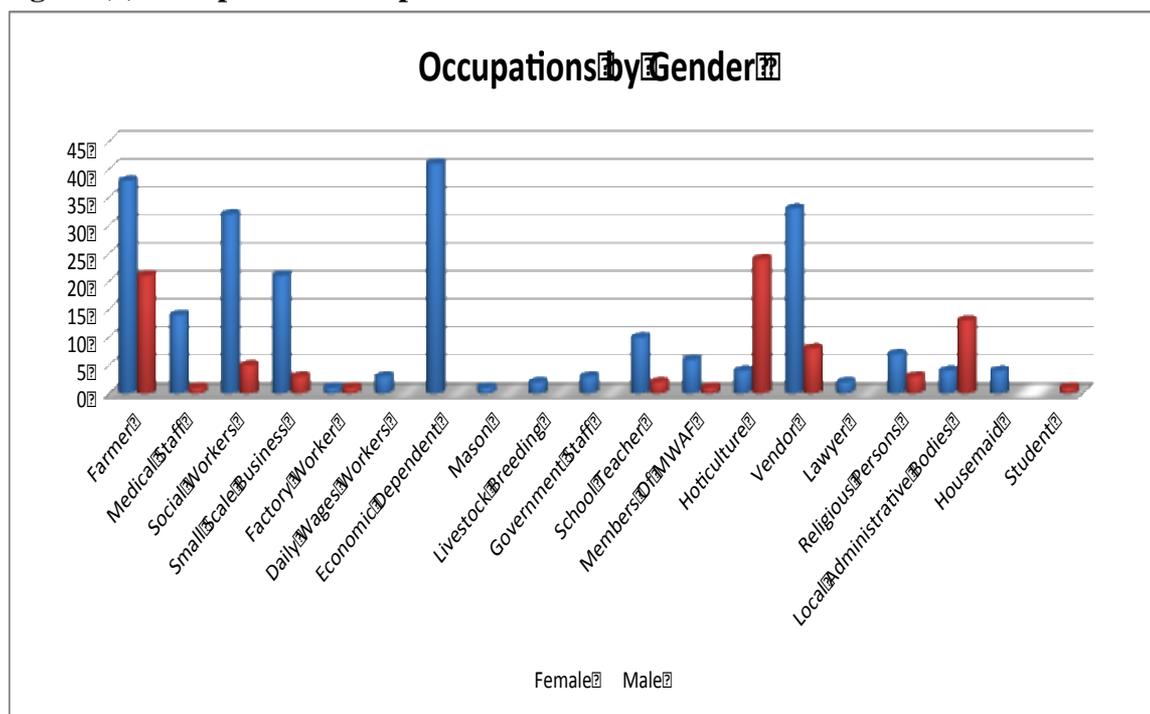


Figure (2) Occupation of Respondents



Annex – III (1)

Violence cases including rape, sexual assault and other forms of violence handle by Legal Clinic Myanmar

2016 figures are only up to April 30.

NA-Not Available

Types of Cases	Yangon		MKN		Meiktilar		Pya Pone		Rakhine		Mandalay		Total
	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	
Court / Police													
Rape	10	12	17	NA	5	NA	9	4	3	2	1	NA	63
Forgery/Cheating for the sex	13	NA	NA	1	1	NA	1	NA	NA	NA	4	3	23
Divorce	4	NA	2	1	1	NA	1	1	5	NA	1	1	17
Others	30	8	2	1	4	3	8	6	7	7	14	6	96
Trafficking	NA	NA	2	NA	NA	NA	NA	1	NA	NA	NA	NA	3
Mediation	178	84	11	3	17	16	81	28	59	5	103	49	634
Grand Total	235	104	34	6	28	19	100	40	74	14	123	59	836

Types	2015	2016	Total
Court / Police			
Rape	45	18	63
Forgery/Cheating for the sex	19	4	23
Divorce	14	3	17
Others	65	28	93
Trafficking	2	1	3
Mediation	449	185	634
	594	239	833

Annex – III (2)

Mon State Women and Children Upgrade Conduct Organisation is a locally based organization works in Mawlamyine, Mon state and focuses on the protection and promotion of Women and Child Rights. It also concerns about the women survivors of domestic and other forms of violence. As of February 2016, they deal over 274 cases of sexual and other forms of violence. Of 274 cases, 76 were reported to the court and the rest was solved through mediation. Of 76 reported cases, 30 were rape cases.

The coordinator of MWCUC mentioned that no marital rape was included in their cases. Domestic violence included physical injury; beating, adultery and other forms of violence were reported to MWCUC.

Though we are serving this community work, we face my challenges such as fund limitation, improper legal system and lack of responsibilities of police officers and other concerned persons. An example of a 13-year-old girl case showed how the police officers have lack of responsibilities and the legal provision is not follow strictly.

“A 27-year-old guy from village (x) raped a 13-year-old girl. A girl is living with her mom who is in insane. Once we heard that case, we helped the girl to report the case. The responsible officer around that areas transferred that case places to places. After over 12 days, we were referred to Mawlamyine police station, a police officer calls his wife and let her examine to the girl for vaginal injury and semen to prove this is rape. A wife of police officer explained that she didn’t find any evidence on the girl. At the same time, the village administrative bodies forced the girl to marry the perpetrator. We totally against on this type of manner and we are still fighting for this to get back justice.”

The coordinator also explained that the communities informed them for some rape cases admitted by military personnel and armed groups who based in Mon State but they do not dare to handle it. There’s about 3 cases reported to them but they refused to deal with.

The coordinator added that they were also informed on case of reescalation of armed group in Mon State. There is also arbitrary taxation admitted by such ex-ceasefire group among public. The State tried to arrest the group and sealed to be authorized use of their property at the same time. These groups of people have returned back into their original status of insurgency and threatened the both the State and public. This group asked the state to give them the permission to use natural resources, self-rule and the legal provision to reintegrate in the community. If the state cannot provide these demands, they will destroy the communities. This kind of incident can ignite communal violence and will create vulnerable situation to the communities.

(A woman, Coordinator of MWCUC, Mawlamyine, Mon State – 12 May; 2016)

Voices of Respondents on Violence Against Women

Prevalence of Domestic Violence

“I have dealt with (5) cases of domestic violence including rape. One was the physical violation between intimate partners that a Burmese girl was abused and hurt by her partner, a foreigner. A friend of that foreigner informed to me such cases and I reported to the police but the police didn’t want to take action since it was a domestic case and case between couple. I frequently forced the police to take action and the police reminded to the husband. The second adultery and physically hurting case of husband to his wife was happened in Mandalay. The third was also adultery happened among couple in Yangon. This case was not purely adultery; it also included hurting, beating and physical violence by husband. Both second and the third cases were not reported to the police/ court due to fear of social stigma. The fourth was in MyaungMya that father raped his daughter while his wife was away. That case, father was sentenced two years imprisonment. The fifth case was happened in Lapputta, a village headman raped a girl with disability. I have just provided reasonable suggestions and guidance to all complaints. Due to lack of rule of law and improper legal procedures, most cases they do not report to the police or court. Traditional norms such as social stigma, women’s position of economic dependent and dignity, intimate partners violence is dared not to report.” **(Woman, an independent service provider, Hlaing Township, 2016)**

“There are about 40 violence cases that I am dealing with in our ward. The highest case is fighting and argument, there’s also child rape, it’s about 3 cases. The families of survivor reported to us and we reported back to the police but the police didn’t proceed and able to catch up the perpetrator. When, we (the family members, ward authorities, 100 household head and 10 household head) investigated the cases then the police caught the perpetrators.” **(Male, 38 years old, ward administrative body, HlaingThaYar, Ward (5), Yangon)**

Voices of Women on Marital rape

“ I have been raped by my husband when he was drunk. Though I had no feeling at all and didn’t want to have sex, I had to live with him. I was hit, kick off and hurting, if I denied him. I kept silence over this abuse because I consider about my children whether they will have imprisoned father if I complain this violation. And also afraid of that my children will grow up without farther if I divorce my husband due to this violation”. **(Female, Mone Paw Village, Southern Shan State)**

“The man wants to live with his wife though the wife doesn’t want. If his wife denied, he blamed his wife and the man didn’t talk to his wife in the morning. Even he said something he is blaming his wife whether she live with other men that’s because you denied me. “ **(a 33 years old woman, member of MWAF, Inn Zaut village, Long Lon Township, Thaninthari)**

“ The man asked his wife for money. If his wife didn’t give him, he sold the household assets. After using drug and back home, he destroyed all households’ belongings and hit and kicks off his wife.” **(a woman, church leader, Mone Paw village, Mone Paw Township, Northern Shan)**

Experiences of women of Physical and Psychological Abuse:

“When men got drunk, they bullied their spouses. Although women are bullied, they do not report to the authorities. However, their surroundings have known about that kind of quarrel among couples. The elderly persons from the ward are taking the role as mediators if something happened among couples. This is the normal situation in our surrounding. However, there was once that I heard a dispute in my surrounding. But I thought that it was like before and I did go and do mediation. At that night, the woman died due to brutally violence of her husband. When it was reported to the police, they came to investigate and carried the corpse of woman. And then they did investigate again. The surrounding accepted that the husband committed to this. The children also saw that. However, I have found out that the relatives from the husband gave bribes to the police then the husband was not arrested yet.”**(A woman, 48 years old, School Teacher, ShweNyaung Pin Village, ThantaungGyi Township, Kayin State)**

“My mother in law used to say something about me and blame me that I blocked her son’s future because I was married with his son.” **(a woman, 49 years old, primary school teacher, Ward (2), Mayangone, Yangon)**

“My husband is substance abuse and alcoholic. If he gets drunk, he bullied me. He beats me and hurts me physically. When I conceived my second child, he beat me 3 times.”**(Daw Mu Mu, Hmone Paw Village, Hmone Paw Township, Northern Shan State)**

Women’s Experiences of Economic Abuse:

“My husband works at air-condition repairing shop. He said that he gets about two hundreds and fifty thousands kyat per month but he gives me once in three month around one hundreds thousands kyat. When I followed to his work place, he scolds and hit me in front of his colleagues. Again he roughly pushes me then I was fallen down from the higher place and I have broken one of my ribs. I haven’t reported to the police. Thinking of to go to the village administrative office but there is a clause mentioning “there will not be accepted the case of couple” in front of that office. So my case was not reported till now.” **(a 35 years old, owner of mini-shop, Inn Pauk Su Ward, ShwePyiThar, Yangon)**

“This house is belonged to my husband so he used to ask me to leave the house. This affects to my children. My child sometimes told me that there is a scenario of argument among parents and father beats mother during studying so my child doesn’t want to continue schooling.” **(a woman, Mone Paw Village, Mone Pay Township, Northern Shan)**

Voices of Respondents on the Understanding of legal procedures and law

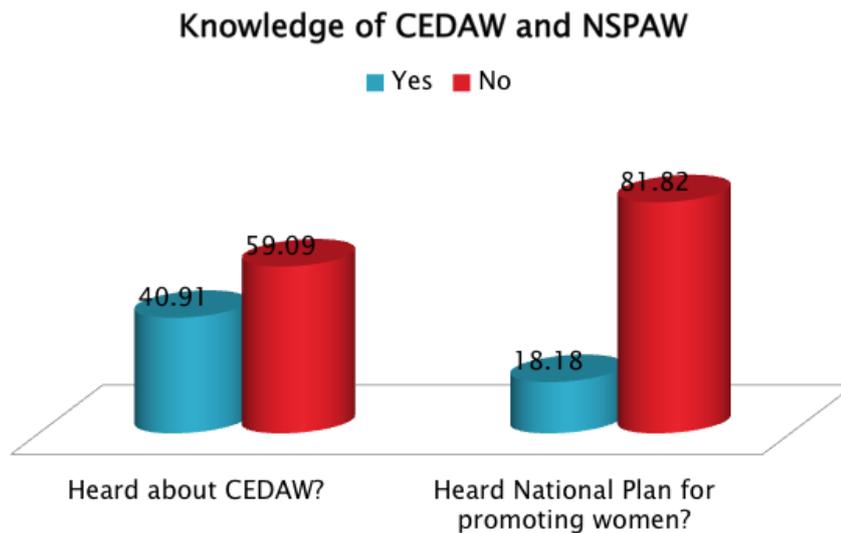
Understanding of Respondents on legal procedures and law _Voices of Respondents

“ In our village, there’s no government legal support. We use our own principles. There can be government legal support system but no one knows.” (A **60 year old man, farmer, Pintaya Township, Southern Shan**)

“ No legal shall prevent. It is only on the paper. There is no specific action taken by laws. We are afraid of governance bodies and no guarantee for local civilians. That is because there are lots of violence cases that are not reported to the court and police.” (a **38 years old man, village administrative body, HlaingThaYar Township, Yangon**)

“ There’s no legal supports and shelter provision in our surrounding. If something is happened among couple, I return to my parent’s house and relatives for resettlement.” (a **38 years old woman, farmer, Pin Ta Ya Township, Southern Shan**)

Figure (3) Percentage of Respondents on the understanding of CEDAW & NSPAW



Voice of Respondents over places and redress of violence

Places and Redress of rape, intimate partners violence and other forms of violence

“I can negotiate with married couple but I have no responsibility to take actions when cases are reported to me. There is a police station beside village administrative office. I send the case to the police if I cannot negotiate. The police will precede further actions.”
(Male, 46 years old, 100 household head, Mayangone Township, Yangon)

“Why the woman didn’t report the case is because her background as she is coming from a poor family. She concerns about her family as her family has a small number. She is afraid of that her family will be broken/ scattered if she reports. She is also worrying about her status of dependent to be lost.” **(Man, 40 years, head of village administrative function, Inn Pauk village, Long Lone Township, Thanintari Division)**

“There was a case of child rape. We reported/ sued as a rape case to the court. If there was strong evidence and proof, perpetrator would sentence to unlimited life imprisonment or imprisonment for the whole life. As we could not provide the full evidence such as vaginal injury, semen, clothes and medical records, the case was turned to attempt to rape and the perpetrator was sentenced only 5 years imprisonment due to lack of evidence.”
(Woman, 30 years old, Lawyer, Loikaw Township, Kayah State)

“They do not submit the case to the court. They just submit it to the administrative office and give warning to the husband like if you commit next time; you will be put into jail. They said like that and released him. If you report the case, you have to do witnesses of this case so that nobody wants to do it.” **(A woman, 47 years old, member of Myanmar Woman Affairs Federation, New Aye Ward, Dawbone Township, Yangon Divison)**

“There is a man who use to drink. Once the husband drunk, he behaved wildly to his wife. So his wife could not bear anymore and came to us. When they came to report the case, her husband followed together with her. She would like to divorce him. However, we do not have the authority to take actions.” **(A woman, 48 years old, member of Myanmar Woman Affairs Federation, Ward 13, Hsinkaunglay Village, PyoinOoLwin Township, Mandalay Division)**

Figure (4) Percentage of Respondents expressed on Domestic Violence

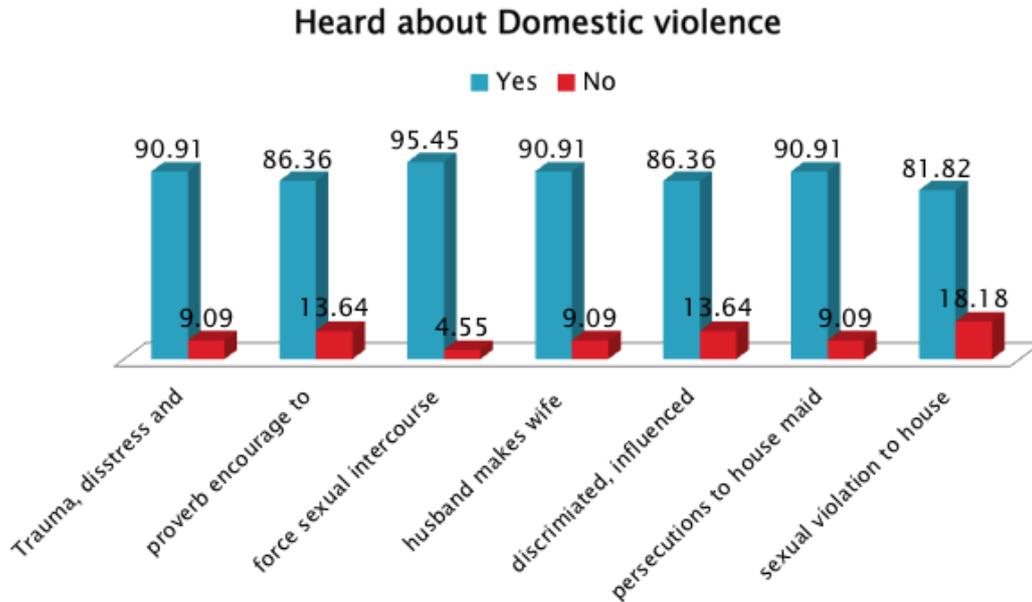


Figure (5) Percentage of Respondents Expressed on the assistance received for domestic violence

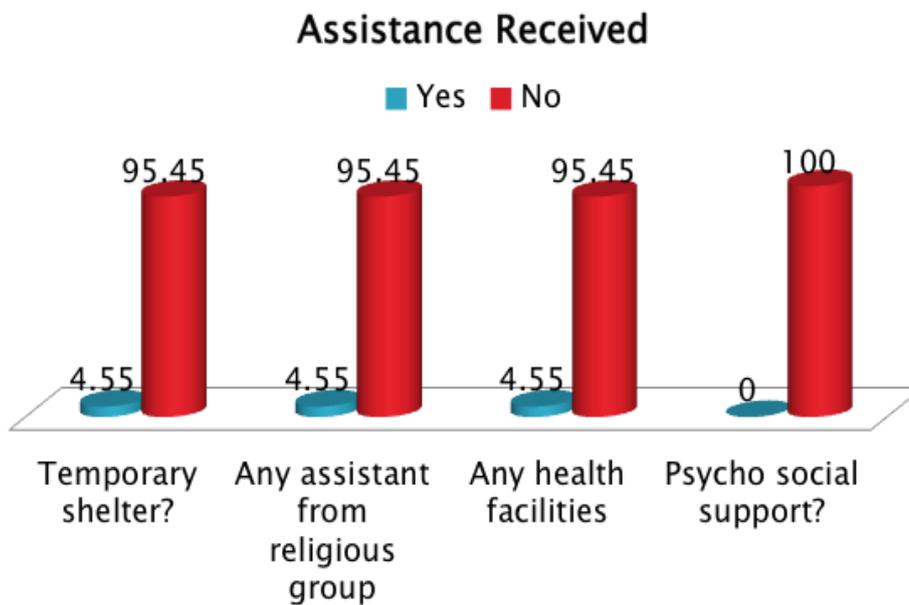


Figure (6) Percentage of Respondents Received awareness on VAW

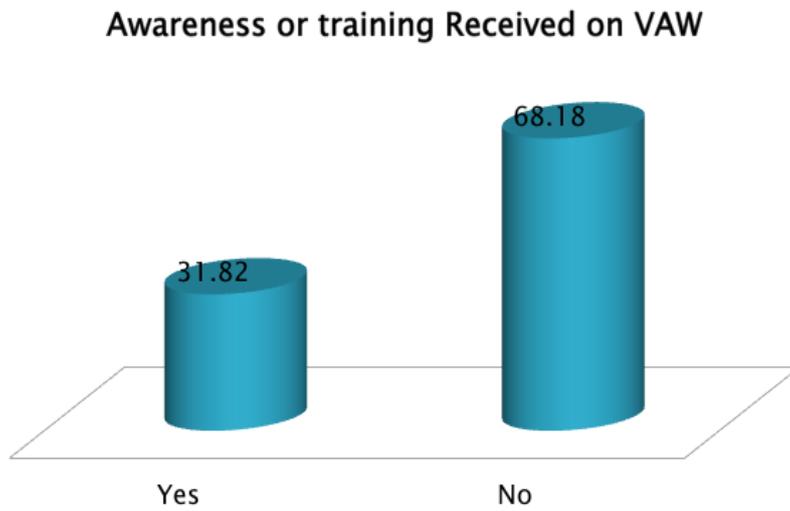
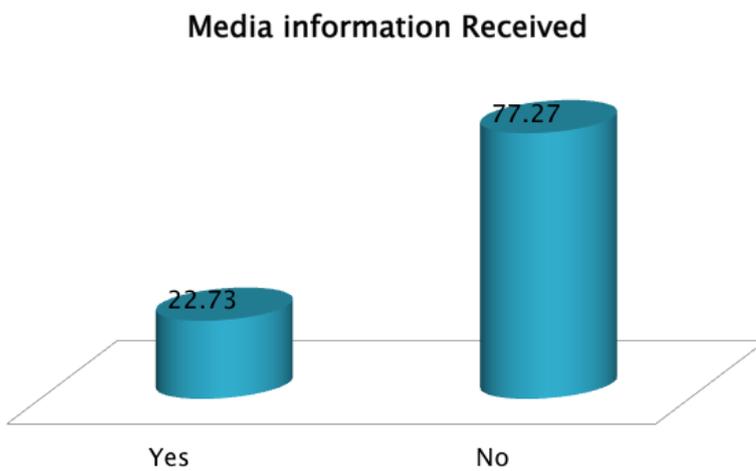


Figure (7) Percentage of Respondents Received information on VAW through Media



UNOFFICIAL TRANSLATION

**The Myanmar Buddhist Women's Special Marriage Law
(draft)**

(2014, PyidaungsuHluttaw Law No.)

date month 1376 ME

date month 2014

Preamble

In order to enable the enjoyment of equal rights by Myanmar Buddhist Women and non-Buddhist men

1 with respect to marriage, divorce, partition¹³ and guardianship of children and to give effective protection, the

PyidaungsuHluttaw hereby enacts this law.

Chapter I

Title, Application and Definition

1. This Law shall be called the Myanmar Buddhist Women's Special Marriage Law.

2. (a) This Law shall be applicable to Myanmar Buddhist Women and non-Buddhist men.

(b) Disputes concerning marriage, divorce, partition, succession and guardianship of children of Myanmar Buddhist women and non-Buddhist men shall be decided in accordance with this Law, subject to the provisions of the Law Relating to the Practice of Monogamy System.

3. The following terms contained in this Law shall mean as follows:

(a) "Citizen" means Myanmar citizen as defined by the Myanmar Citizenship Law.

(b) "Buddhist Woman" means a woman who is a citizen of the Republic of the Union of Myanmar, and a woman who professes the Buddhist faith or born of parents who profess the Buddhist faith. However, if the woman conspicuously converted from Buddhism to another religion and professes the other religion officially, it cannot be assumed that she is a Buddhist

¹³ Translator's Note: the use of "partition" throughout this Bill refers to partition of both property and monies.

only by the reason that she was born of parents who profess the Buddhist faith.

(c) “Registrar” means a Registrar of Marriages under this Law.

Chapter II

Persons not concerned with this Law

4. This Law shall not be applicable to marriages contracted between Buddhists; and between non-Buddhists.
5. Myanmar Customary Law and the Law Relating to the Practice of Monogamy System shall be applicable to marriages contracted between Buddhist women and Buddhist men.
6. Disputes concerning marriage, divorce, partition, succession and guardianship of children of Buddhist Women and Buddhist men shall be decided in accordance with Myanmar Customary Law and the Law Relating to Practice of Monogamy System.
7. The marriage between a non-Buddhist woman and a non-Buddhist man shall be subject to relevant existing law, religion, and custom, and to the Law Relating to Practice of Monogamy System.
8. Disputes concerning marriage, divorce, partition, succession and guardianship of children of non-Buddhist Women and non-Buddhist men shall be decided in accordance with their relevant existing law, religion, custom, and the Law Relating to the Practice of Monogamy System.

Chapter III

Persons who can marry under this Law

9. A non-Buddhist man, who has attained the age of 18, and a Buddhist woman, who has attained the age of 18, may contract a valid marriage under this Act if the following facts are fulfilled:
 - (a) both parties shall not be of unsound mind;
 - (b) consent to marry shall be voluntary and free from seduction, inducement, coercion, undue influence, fraud or misrepresentation;
 - (c) if the woman has not attained the age of twenty, the consent of parents, or if they are dead, of the guardian *de facto* or of the guardian *de jure*, if any, shall be obtained;
 - (d) in the case of a woman, no valid marriage shall subsist;

(e) in the case of a man, no valid marriage shall subsist.

Chapter IV

Marriage under this Law

10. Township Administrative Officers of the Township General Administration Department shall be Registrars of Marriages under this Law.
11. Whenever a non-Buddhist man and a Buddhist woman intend to contract a marriage, one of them shall apply in writing in the prescribed form to the Registrar within the jurisdiction where one of them is residing.
12. The application shall be accompanied by an affidavit, admitting that the facts provided under section 9 of Chapter 3 are fulfilled.
13. The non-Buddhist man shall sign in the presence of the Registrar and two witnesses that the facts stated in the application are true.
14. (a) The Registrar shall –
 - (1) affix a copy of the application at a conspicuous place in his office; and
 - (2) serve a notice, in accordance with the manner of service of summons or notices under the Code of Civil Procedure –
 - (aa) if the woman to be married is under 20 years of age, on the parent or guardian;
 - (bb) if the woman had already married a man, on such man;
 - (cc) if the man had already married a woman, on such woman.
 - (b) If the residence of any person to be served with a copy of the notice is beyond the limits of his jurisdiction, send a copy to him by registered post or by a messenger.
15. Fourteen days after notice of an intended marriage has been given under section 14, such marriage may be solemnized by the Registrar unless it has been previously objected to under sections 16 and 18.
16. Any person may, in writing addressed to the Registrar, object to the intended marriage on the ground that the persons, who submitted application for marriage under section 11, did not comply with one or more of the conditions prescribed in section 9.
17. (a) On receipt of the objection, the Registrar shall refer the objector to a Court of

competent jurisdiction and shall postpone the solemnization of marriage until the order of the Court is obtained.

(b) The Court of competent jurisdiction under sub-section (a) shall be the Township Court within which the Office of the Registrar is situated.

18. (a) The objector may file an application before a Court of competent jurisdiction on the ground that the persons who submitted an application for marriage under section 11 did not comply with one or more of the conditions prescribed in section 9

(b) The Court shall issue a certificate to the objector that such an application has been received.

(c) The Registrar shall –

(i) not solemnize the marriage of the applicants unless and until an order from the Court is received that the persons have the right to contract a valid marriage, if the certificate issued by the Court under sub-section (b) is lodged by the objector within the specified time;

(ii) solemnize the marriage of the applicants if the certificate is not lodged within the specified time;

(d) The Court shall, after examining the allegations contained in the application and hearing the evidence produced by the parties in a summary way, decide whether the parties to the intended marriage have the right to contract a valid marriage, and shall pass an order accordingly. Such order shall be final.

(e) The Court shall forthwith send a copy of its order to the Registrar.

(f) (i) If the Court orders that the parties to the intended marriage have the right to contract a valid marriage, the Registrar shall solemnize the marriage.(ii) If the Court orders that the parties to the intended marriage do not have the right to contract a valid marriage, the Registrar shall not solemnize the marriage.

19. When the Registrar solemnizes a marriage under section 15 or 18, it shall be solemnized in the presence of two witnesses. Both parties shall declare, in the presence of the Registrar and witnesses, that "we are going to live together as lawful husband and wife".

20. When the marriage has been solemnized under section 19, the Registrar shall enter the relevant particulars in "The Marriage Certificate Register". Such register shall be signed by the parties to the marriage, the witnesses and the Registrar.

21. The Registrar shall arrange "The Marriage Certificate" in quadruplicate, and shall deliver one each to both parties. If the wife is under 20 years of age, to her parent or guardian. The third copy shall be kept permanently at the office of District Administrative Officer. The fourth copy and the documents relating to the marriage shall be attached to the Book of Marriage Registration at the Township General Administration Department.

22. The register of marriages and other documents appertaining thereto shall at all reasonable time be open for inspection, and certified copies thereof shall, on application, be supplied by the Registrar on payment to him by the applicant a fixed rate.
23. Certified copies of documents relating to marriages under this Act shall be received in evidence without further proof.

Chapter V

Provisions to be observed by non-Buddhist man

24. A non-Buddhist man, who has contracted or deemed to have contracted a marriage under this Act, shall observe the following provisions relating to the religious faith of the Buddhist woman –
 - (a) to allow the Buddhist woman to profess the religion freely according to her faith;
 - (b) to allow the children born from the marriage with the Buddhist woman to profess their religion freely according to their faith;
 - (c) to allow the Buddhist woman to keep Buddha statues and images at their home;
 - (d) to allow the Buddhist woman to donate according to religion, to worship, to recite to ward off evil (Payeik), to tell (one's) beads, to listen to religious sermons, to practise religious meditation, to visit Pagoda and Monasteries, to fast, to read and study literature relating to Buddhism;
 - (e) not to cause the Buddhist woman to relinquish the Buddhist faith by using various means, and to convert her to his religion;
 - (f) not to destroy or damage or to defile the place of worship or the thing which is sacred with an intent to insult Buddhism;
 - (g) not to insult, in words or in writing or through visible representation or gesture, with bad intention to cause bitter feeling to the Buddhist.
25. Notwithstanding any provision contained in law and custom, if a non-Buddhist man, who has contracted a marriage under this law, violates any provision under section 24, the Buddhist woman can divorce the non-Buddhist man. If the woman would divorce the man due to that reason –
 - (a) the man shall waive the portion that he is entitled to from the property owned by both, and pay compensation to the Buddhist woman;
 - (b) the guardianship of all children shall be with the Buddhist woman;

- (c) the man shall pay maintenance for children who are minors.

Chapter VI

Marriage Deemed to be Contracted Under This Act

26. In case of cohabitation between a non-Buddhist man and a Buddhist woman, as if they were both Buddhists and Myanmar, and if the said cohabitation could be assumed to be a valid marriage according to Myanmar Customary Law –

(a) They are deemed to have contracted a marriage from the beginning of such cohabitation, and shall be presumed to be married under this Act;

(b) Such husband and wife may lodge an application to the Registrar, at any time from the day that cohabitation started, for registration under this Act. Then, the Registrar shall perform according to the provisions of sections 20 and 21 as if they were solemnized by him under section 19.

Chapter VII

Marriage Solemnized by the Registrar

27. (a) When a Buddhist woman and a non-Buddhist man have been cohabiting without registering their marriage under this Act, the woman or her parents, guardian, relatives may give such information to a Registrar within whose jurisdiction she resides. The Registrar shall record the information, and it shall be signed by the informant.

(b) The Registrar shall –

(i) upon receiving the information under sub-section (a), record the information; request the informant to sign it; then summon both the Buddhist woman and the non-Buddhist man, who are cohabiting without being registered, to appear before him on a date fixed by him;

(ii) if both parties who are summoned under sub-section (i) wish to contract a marriage, the Registrar shall proceed in accordance with the requirements of section 19, and shall perform according to the provisions of sections 20 and 21.

(iii) If either party or both, who are summoned under sub-section (i), are unwilling to contract a marriage or fail to appear, the Registrar shall send a report to the Court that has jurisdiction under section 16 together with the written information.

c. Notwithstanding any provision contained in other existing laws, upon receiving the report, the Court shall treat the case as if a civil suit has been properly prosecuted, examine both parties and the evidence submitted by them, hear the case summarily, and decide whether the man and woman are husband and wife under section 26 sub-section (a). The Court may pass an order on the costs as it considers appropriate.

d. In a case where the parties are cohabiting under sub-section (a) – (i) the party who

wishes to register the marriage shall be deemed plaintiff; and the other party who does not wish to register the marriage shall be deemed defendant.

(ii) if both parties have no wish to register the marriage, the person who gave the information shall be deemed plaintiff, and both persons who do not wish to register the marriage shall be deemed defendants.

e. The Court shall forthwith send a copy of its order to the Registrar.

f. If the Court decides that the man and woman are husband and wife under the section 26 sub-section (a), the Registrar shall, in accordance with the order of the Court, enter the particulars in the Marriage Certificate Register, and shall sign in the register book. The Registrar shall then perform according to the stipulations of section 21.

(g) The order passed by the Township Court can be appealed to the District Court which has competent jurisdiction. The order passed by the District Court shall be final.

Chapter VIII

A Promise for Marriage deemed to have been made under this Law

28. A promise to marry a Buddhist woman made by a non-Buddhist man shall be deemed to be a promise to marry her under this Act.
29. Where any member of an undivided family who professes the Hindu, Sikh or Jaina religion marries or is deemed to have married under this Act to a Buddhist woman, he shall be deemed to effect his severance from such family. Besides, in case of his death before partition, his vested right shall devolve on his wife and children.

Chapter IX

Issues Relating To Property Ownership and Matrimony shall be decided under Myanmar Customary Law

30. All issues concerning the right to property ownership and inheritance relating to persons who have contracted, or deemed to have contracted, a marriage under this Act, and their lawful husbands, lawful wives and all lawful children, shall be decided according to Myanmar Customary Law as if they and their families were Buddhist.
31. The provisions of Myanmar Customary Law relating to matters of divorce, partition, guardianship of children, shall have effect on persons who contracted marriages under this Act or persons who are deemed to have contracted a marriage under this Act, as if they all were Myanmar Buddhists.
32. However, due to any religion, custom or any law that has effect on such religion or custom, and that does not allow the marriage between a non-Buddhist man and a Buddhist woman, the man can divorce the woman if he wishes. Due to such a

reason, if the man divorces the woman, or forsakes, or behaves cruelly and causes mental harm, whether or not it amounts physical violence, notwithstanding the provision of the said custom or law – 2

(a) the man shall waive the portion entitled to him from property owned by both parties¹⁴, and pay compensation to the Buddhist woman;

(b) the guardianship of all children shall be with the Buddhist woman; (c) the man shall pay maintenance for children who are minors.

33. While a non-Buddhist woman, who is a citizen of the Union of Myanmar, was cohabiting with a non- Buddhist man as husband and wife, and the woman converted to the Buddhist religion; they shall be treated as though they contracted a marriage under this Act, and the provisions under sections 30 and 31 shall be applicable to them.

34. However, when the woman converted to the Buddhist religion, due to the reason that any religious custom that has legal effect, or to any law that has effect on custom, that does not allow the marriage between a non-Buddhist man and a Buddhist woman, if there is wish to divorce, the man or the woman can divorce within an appropriate period with effect from the date that the woman converted to the Buddhist religion. Due to that reason – (a) If the man would divorce the woman –

(i) The man shall pay monthly maintenance that is sufficient to continue a standard of living not lower than the standard of the woman prior to the conversion of the religion, until the woman contracts another marriage.

(ii) The woman shall be entitled to all properties that the woman owned solely prior to the conversion of religion by the woman. However, the woman shall not be entitled to any property owned solely by the man prior to conversion of the religion.

(iii) The woman shall hold the right of guardianship on all the children who are minors.

(iv) The man shall pay maintenance to all the children who are minors.

(b) If the woman would divorce the man –

(aa) The woman shall not be entitled to any property solely owned by the man prior to conversion of religion to Buddhism by the woman except the property solely owned by the woman.

(bb) The woman shall hold the right of guardianship on all the children who are minors.

(cc) The man shall pay maintenance to all the children who are minors.

¹⁴ Translator's Note: It is not clear from the Myanmar text as to when such property might have been acquired.

35. The provisions stipulated from sections 30 to 34 shall be applicable to all matters between a Buddhist woman and a non-Buddhist man relating to divorce, or abandonment of the Buddhist woman by a non- Buddhist husband, or cruel behaviour by the non-Buddhist husband causing mental harm whether or not it amounts physical violence.
36. If the marriage is contracted, or deemed to be contracted under this Act, the children who are born of those parties shall be presumed as lawful children.

Chapter X

Offences and Penalties

37. If the Court is of the opinion that the objection made under sections 16 and 18 was not lodged in good faith, the Court may pass an order that the objector shall pay compensation of not more than Kyats 50,000 to the persons who intend to get married.
38. If a non-Buddhist man violates any provision under sub-sections (a), (b), (c) and (d) of section 24, he shall be punished with imprisonment for a term which may extend to 6 months, or with fine not more than Kyats 500,000, or with both.
39. If a non-Buddhist man violates the provision under sub-section (e) of section 24, he shall be punished with imprisonment which may extend to 3 years, and shall also be liable to a fine.
40. If a non-Buddhist man violates the provision under sub-section (f) of section 24, he shall be deemed to have committed an offence under section 295 of the Penal Code.
41. If a non-Buddhist man violates the provision under sub-section (g) of section 24, he shall be deemed to have committed an offence under section 295 (a) of the Penal Code.
42. Any person making, signing or attesting any declaration or certificate (prescribed by this Act) containing a statement which is false and which he either knows or believes to be false or does not believe to be true shall be deemed to have committed an offence under section 199 of the Penal Code.
43. Any Registrar who solemnizes a marriage against any provision stipulated in sections 13, 14, sub- section (a) of section 16, sub-section (c)(i) of section 17, sub-section (f)(ii) of section 17 shall be punished with imprisonment which may extend to one year or shall also be liable to fine not more than Kyats 50,000.
44. The Buddhist Women's Special Marriage and Succession Act, 1954 is revoked by this Law.

THE SCHEDULE.

Form A (for man)

(See section 11)

FORM OF NOTICE OF MARRIAGE

_____ District

_____ Township

To the Registrar of Marriage

I hereby give notice that a Marriage under the Myanmar Buddhist Women's Special Marriage Law is intended to be solemnized between me and the other party herein named and described:—

Statements of the person giving the notice:—

Part (1)

(a) Name

(b) Occupation

(c) Nationality

(d) Religion

(e) Age

(f) Residence (residing prior to the date of notice)

(g) Names of the parents -

(1)

(2)

(h) Occupation of the parents

(i) Residence of the parents

(j) Name of the guardian (if no parents are living)

(k) Occupation and address of the guardian.

(l) Whether he has been married before; and if so, whether the marriage is subsisting at this date.

(m) If the former wife is still alive, her name and address.

Part (2)

- (a) The name (of the other party).
- (b) Occupation.
- (c) Nationality
- (d) Religion.
- (e) Age.
- (f) Residence (during the last 14 days prior to the date of notice).
- (g) Names of the parents -
 - (1)
 - (2)
- (h) Occupation of the parents.
- (i) Residence of the parents.
- (j). Name of the guardian (if no parents are living).
- (k) Occupation and address of the guardian.
- (l) If under the age of 20, whether consent of the parents or of the guardian has been obtained.
- (m) The name, address and occupation of the parents or of the guardian giving consent.
- (n) Whether she has been married before; and if so, whether the marriage is subsisting at this date.

DECLARATION BEFORE THE REGISTRAR

I, hereby declare that what is stated in Part (1) in the above notice is true to my own knowledge, and what is stated in Part (2) is true to the best of my information and belief. I am aware that, if any statement in the above notice is false to my knowledge, and if in making such statement, I either know or believe it to be false, or do not believe it to be true, I am liable to be prosecuted under section 199 of the Penal Code.

(Signed.)

In the presence of :-

(1) (Signed.)

(Name, occupation and address.)
(2) (Signed.)
(Name, occupation and address.)

The above statements have been read over and explained to the declarant who acknowledges the contents to be correct and has signed this declaration to that effect in the presence of myself and two witnesses who have signed above.

(Signed.)

Registrar of Marriages

I hereby certify that I have published the above notice by affixing the copy thereof in a conspicuous place in my office on the _____ and have served/sent copies of the same to

_____ on the following dates _____

(Signed.)

Registrar of Marriages

Form B (for woman)

(See section 11)

FORM OF NOTICE OF MARRIAGE

_____ District

_____ Township

To the Registrar of Marriage

I hereby give notice that a Marriage under the Myanmar Buddhist Women's Special Marriage Law is intended to be solemnized between me and the other party herein named and described:—

Statements of the person giving the notice :—

Part (1)

- (a) Name
- (b) Occupation
- (c) Nationality
- (d) Religion
- (e) Age
- (f) Residence (during the last 14 days prior to the date of notice)
- (g) Names of the parents—
 - (1)
 - (2)
- (h) Occupation of the parents
- (i) Residence of the parents
- (j) Name of the guardian (if no parents are living)
- (k) Occupation and address of the guardian.
- (l) If under the age of 20, whether consent of the parents or of the guardian has been obtained.
- (m) The name, address and occupation of the parents or of the guardian giving consent.
- (n) Whether he has been married before; and if so, whether the marriage is subsisting at this date.
- (o) If the former husband is still alive, his name and address.

Part (2)

- (a) The name (of the other party)
- (b) Occupation
- (c) Nationality
- (d) Religion
- (e) Age
- (f) Residence (residing prior to the date of notice).
- (g) Names of the parents—
 - (1)

(2)

(h) Occupation of the parents.

(i) Residence of the parents.

(j) Name of the guardian (if no parents are living).

(k) Occupation and address of the guardian.

(l) Whether he has been married before; and if so, whether the marriage is subsisting at this date.

DECLARATION BEFORE THE REGISTRAR

I, hereby declare that what is stated in Part (1) in the above notice is true to my own knowledge, and what is stated in Part (2) is true to the best of my information and belief. I am aware that, if any statement in the above notice is false to my knowledge, and if in making such statement, I either know or believe it to be false, or do not believe *it* to be true, I am liable to be prosecuted under section 199 of the Penal Code.

(Signed.)

In the presence of :-

(1) (Signed.)

(Name, occupation and address.)

(2) (Signed.)

(Name, occupation and address.)

The above statements have been read over and explained to the declarant who acknowledges the contents to be correct and has signed this declaration to that effect in the presence of myself and two witnesses who have signed above.

(Signed.)

Registrar of Marriages

I hereby certify that I have published the above notice by affixing the copy thereof in a conspicuous place in my office on the _____ and have served/sent copies of the same to

_____ on the following dates _____

(Signed.)

Form C

(To be in quadruplicate.)

(See section 20)

FORM OF THE MARRIAGE CERTIFICATE REGISTER

No.

Date of marriage

Place of marriage

(a) Name of husband

(b) Age

(c) Nationality

(d) Religion

(e) Occupation

(f) Address

(g) Name of parents, occupation and address

(h) Name of the guardian, occupation and address (if no parents are living)

(a) Name of wife

(b) Age

(c) Nationality

(e) Occupation

(f) Address

(g) Name of parents, occupation and address

(h) Name of the guardian, occupation and address (if no parents are living)

(i) If under the age of 20, the name, address and occupation of the parents or of the guardian giving consent.

*[This marriage has been solemnized between and in the presence of the witnesses mentioned below.

Signature of husband

Signature of wife

at the presence of us -

Mr./Mrs. Name _____

Occupation _____

Address _____

Mr./Mrs. Name _____

Occupation _____

Address _____

Signature of the person who give consent to the solemnization

The solemnization of above-mentioned persons is held at my presence on 20]

Registrar of Marriages

* Remark: If the persons refuse for solemnization, this paragraph shall be deleted according to sub-section (2) of section 21 of the Act.